IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.417 OF 2006

IN

SPECIAL CIVIL SUIT NO.47 OF 2006

WITH

CIVIL APPLICATION NO.505 OF 2006

Karnala Nagar Sahakari Co-operative
Bank Ltd. & Anr. ...Appellants

Versus

City & Industrial Development
Corporation of Maharashtra Ltd. ...Respondents

.....

Mr.Sunil I.Jayakar for Appellants.

Mr.R.M.Sawant for Respondents.

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CORAM: A.M.KHANWILKAR, J.

JULY 11, 2006.

P.C.

1. Heard Counsel for the parties.

2. In my opinion, no fault can be found with the approach of the lower Court, having declined to

grant interim relief for the reason particularly stated in Paragraph 14 of the impugned Judgment. The Court below has rightly opined that State Government was necessary party in the fact situation of the present case without which the substantive relief claimed by the Appellants/Plaintiffs cannot be entertained. This finding will have to be upheld.

3. Counsel for the Appellants submits that in that case, the Appellants be given liberty to move the Trial Court to amend the Plaint and to add State Government as necessary party as also to ask for further reliefs as may be advised. It is only after such steps are taken, the question of entertaining the prayer for temporary relief claimed by the Appellants/Plaintiffs can be considered on its own merits.

4. Accordingly, while disposing of this Appeal, Appellants are granted liberty to move the Trial Court for seeking necessary amendments as may be advised.

5. To facilitate the Appellants to take recourse to such action, it is directed that the Respondents shall not precipitate the matter for a period of four weeks from today.

6. After the amendments are allowed by the Trial Court and carried out, it will be open for the Appellants to move for appropriate temporary relief as may be advised, consistent with the substantive relief claimed against the State in the pending suit.

7. Till such application is decided, it will be open to the Trial Court to protect the possession of the Appellants with regard to the suit property.

8. Appeal and the cognate Civil Application disposed of on the above terms.

A.M.KHANWILKAR, J.